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10 JOBY, INC.

11  
12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 SAN FRANCISCO DIVISION  
15

16 JOBY, INC.,

17 Plaintiff,

18 v.

19 TOCAD AMERICA, INC.,

20 Defendant.  
21

Case No. 3:07-CV-06455 (SI)

**DECLARATION OF ALEX WADDELL  
IN SUPPORT OF JOBY, INC.'S  
MOTION FOR A PRELIMINARY  
INJUNCTION**

**Date: May 2, 2008**  
**Time: 2:00 p.m.**  
**Courtroom: 10, 19th Floor**  
**The Honorable Susan Illston**

22  
23 I, Alex Waddell, declare as follows:

24 1. I am the Operations Director at Joby, Inc. I make this declaration based upon my  
25 personal knowledge, and if called upon testify, could and would testify competently to the matters  
26 set forth below.

27 2. I began working at Joby as an intern in April 2006. I joined the company as a full-  
28 time employee in August 2006 in the Operations/Customer Service Department. I am currently

1 responsible for overseeing our warehouse operation in the USA, managing inventory levels in  
2 different locations, and shipping/ production scheduling. Until several months ago, I was also  
3 responsible for answering the customer service phone and responding to those customer inquiries.

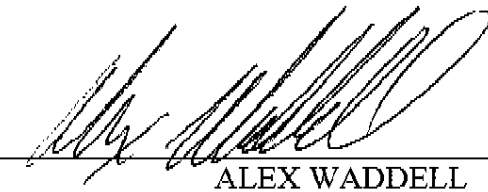
4 3. In late summer of 2007 I answered the customer service phone and spoke with a  
5 gentleman who wanted to make an exchange. He told me that he had seen the Gorillapod  
6 advertised and purchased one. The product that he purchased was broken, and it would not hold  
7 the weight of his camera. He wanted to exchange the mid-sized product that he had purchased for  
8 the large size. I instructed him to send the product in to Joby for the exchange.

9 4. Several weeks later, in August 2007, I received the defective product from the  
10 customer. When I opened the packaging, I saw that the product he was returning was not a  
11 Gorillapod. I could tell that it was not a Joby Gorillapod because it did not have the word  
12 "JOBY" on the quick release button. I learned later that it was a FlexPod from Tocad.

13 5. After realizing that the product the customer had purchased was not a Gorillapod, I  
14 called the customer back and told him that he had sent me a product made by some other  
15 company. When I told him that he had bought a FlexPod he insisted that product he had  
16 purchased was, in fact, a Gorillapod and that he got from a Wolf Camera store in Georgia. At  
17 that time, Joby was not selling Gorillapods through Wolf Camera.

18 6. I still have the FlexPod that was sent to Joby by this customer and can provide it to  
19 the Court for inspection, if so requested. I have attached a photograph of it to this declaration as  
20 Exhibit A.

21  
22 I declare under penalty of perjury under the laws of the United States of America that the  
23 foregoing is true and correct. Executed on this 26 day of March, 2008.

24  
25  
26   
ALEX WADDELL

27 25933/00402/LIT/1279060.3